

## **Public Scoping Meeting: Helium Stewardship Act of 2013**

Thursday, March 6, 2014, 1:00 pm

Amarillo Public Library

Amarillo, Texas

### **Meeting notes**

Robert Jolley, Field Manager, Bureau of Land Management, Amarillo Field Office

### **Introductions:**

Robert Jolley introduced himself and welcomed everyone to Amarillo and to this very important meeting. The Helium Stewardship Act was signed on October 2, 2013. The BLM has a requirement to develop some regulations and rule making pursuant to the new legislation. This is the first step in an attempt to gather public input on what that rulemaking might be. Robert noted that this is a public forum and cautioned against releasing any business sensitive information.

BLM employees were recognized:

Sam Burton, Assistant Field Manager, Helium Operations

Marji Bourque, Secretary

John Hamak, Lead Engineer, Helium Resources

David Reeves, Accountant, Helium Resources

Marty Smith, General Engineer, Helium Operations

Haroon Sheikh, General Engineer, Helium Operations

Caleb Pool, representative for Congressman Mac Thornberry's office

Hector Flores, KAMR News Channel 4

### **Objectives of Helium Stewardship Act Scoping meeting: Robert Jolley.**

See “**Scoping Meeting Presentation (Pdf)**” at

[http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete presentation.

- Inform public stakeholders on the legislative requirements on Bureau of Land Management and Helium Operations; and
- Solicit relevant, focused input from stakeholders on three key issues. The BLM is seeking help on:
  - Helium tolling, between non-refiners and the refiners
  - Pricing Methodology that BLM uses to calculate the market price of helium.

**BLM Discussion:** *It's important to understand that the BLM is one of the leaders in the world for helium production so when we set a market price, it affects worldwide production prices*

- Helium Auctions.

**BLM Discussion:** *The new legislation is one of the major components in changes for the way we previously did business; it has an auction process. Congress mandated the auction process in the law, now we have to develop a mechanism to have the auctions.*

**Agenda: Robert Jolley**

- Ground Rules; Robert covered these rules.
- Introduction to Helium Stewardship Act of 2013; Robert Jolley (50 copies available)
- Presentation of Scoping Issues; Sam Burton, Assistant Field Manager for Helium Operations
- Break
- Public speakers
- Questions and Answers (will begin after all interested individuals have spoken)

**Ground Rules: Robert Jolley**

Robert covered the meeting rules – respectful behavior, cell phones on silent, etc.

**Introduction to Helium Stewardship Act of 2013: Robert Jolley**

- Public Law 113-40 was signed on October 2, 2013.

**BLM Discussion:** *We actually worked hard preparing for a shutdown in October. Under the previous legislation Federal Helium Program was to terminate on October 7, 2013. The President thought it was important enough that the Stewardship Act was one of five bills he signed into law during the government shutdown period. It's a very important piece of legislation.*

- Seeks to mitigate a helium shortage by enabling the sale of crude helium from the Federal Helium Reserve
- Increase taxpayer returns and stimulate investment in private helium sources by selling crude helium at market-driven prices.

**BLM Discussion:** *Market driven prices are important words. We used to charge the price for cost recovery for what it took the government to produce and operate the storage system. But Congress is now asking us to use a market based pricing methodology. That's also consistent with what our own Inspector General asked us to do.*

- Provide for an orderly transition among four phases, resulting in minimal market disruption to end users:
  - Phase A: Allocation Transition. *That's current fiscal year (FY) 2014. BLM offered 400 Million cubic feet (MMcf) for sale in FY 14.*
  - Phase B: Auction Implementation. *Congress has mandated that we complete the auctions and FY15 sale and the FY2016 advanced sale by August 1, 2014.*

**BLM Discussion:** *So this summer, there's going to be sort of a mega sale. There will be an auction, then a sale for FY 2015 sales, then an advance sale for FY 2016. Congress mandated that the FY2015 and FY2016 Advanced Sale all occur this fiscal year.*

- Phase C: Continued Access for Federal Users.

**BLM Discussion:** *The odd thing in the legislation is we will never hit phase C.*

- Phase D: Disposal of Assets. Set to end September 30, 2021.

- Key Definitions:
  - Priority Pipeline Access: The term “priority pipeline access” means the first priority of delivery of crude helium under which the Secretary schedules and ensures the delivery of crude helium to a helium refinery through the Federal Helium System.

**BLM Discussion:** *You'll see this definition again when talking about the In-kind program and providing helium to federal users.*

- Qualified Bidder:
  - (A) In general – The term “qualified bidder” means a person the Secretary determines is seeking to purchase helium for their own use, refining, or redelivery to users.
  - (B) Exclusion – The term “qualified bidder” does not include a person who was previously determined to be a qualified bidder if the Secretary determines that the person did not meet the requirements of a qualified bidder under this Act.

**BLM Discussion:** *What's important is that Congress intended there to be open competition for the auctions. So a qualified bidder is anyone that the Secretary determines has that capability or wants to purchase helium for their own use. It opens the marketplace up for anyone who wants enter into a storage contract with the U.S. Government to purchase helium, enter tolling agreement with refineries, and sell or use the helium.*

- Qualifying Domestic Helium Transaction: The term “qualifying domestic helium transaction” means any agreement entered into or renegotiated agreement during the preceding 1-year period in the United States for the purchase or sale of at least 15,000,000 standard cubic feet (Scf) of crude or pure helium to which any holder of a contract with the Secretary for the acceptance, storage, delivery, or redelivery of crude helium from the Federal Helium System is a party.

➤ **Key Provisions:**

- Section 5: Storage, withdrawal, and transportation:
  - (a) in general – If the Secretary provided helium storage, withdrawal, or transportation services to any person, the Secretary shall impose a fee on the person that accurately reflects the economic value of those services.

**BLM Discussion:** *This is a change from the conservation recovery which we were using to determine an economic value of that storage service and the transfer service. Those fees may see some changes as a result. All fees received by the Secretary in this section are credited to the helium fund. The Amarillo Field Office (60 employees) is funded directly through this helium fund.*

- (d) Treatment – All fees received by the Secretary under this section shall be credited to the Helium Production Fund established under section 6(e).
- (e) Storage and delivery – In accordance with this section, the Secretary shall---
  - ❖ (1) allow any person or **qualified bidder** to which crude helium is sold or auctioned under section 6 to store helium in the Federal Helium Reserve; and ---This opens the door for anyone who wants to enter into a storage contract that meets the definition of qualified bidder or person.
  - ❖ (2) establish a schedule for the transportation and delivery of helium using the Federal Helium System that –

**BLM Discussion:** *This addressed a concern expressed by the industry that there wasn't a timely delivery of that helium.*

- (A) ensures timely delivery of helium auctioned pursuant to section 6(b)(2);

- (B) ensures timely delivery of helium acquired from the Secretary from the Federal Helium Reserve by means other than an auction under section 6(b)(2), including non-allocated sales; and
- (C) provides priority access to the Federal Helium Pipeline for in-kind sales for Federal users.

**BLM Discussion:** *The legislation places special emphasis for providing helium to federal users, such as Department of Energy (DOE), Department of Defense (DOD), National Aeronautics Space Administration (NASA), etc. Federal users have priority.*

▪ Section 6: Sale of Crude Helium:

○ (a) Phase A: Allocation transition –

- ❖ (1) IN GENERAL.—The Secretary shall offer crude helium for sale in such quantities, at such times, at not less than the minimum price established under subsection (b)(7), and under such terms and conditions as the Secretary determines necessary to carry out this subsection with minimum market disruption...

**BLM Discussion:** *When we get the “Phase A” sale, we were not able to sell the first 5 months, because we were waiting on the Office of Inspector General (OIG) report on market-based pricing methodology. The remaining 7 months we chose to sell 400 MMcf. This clause was looked at when we decided to sell 400 MMcf. We will be providing a response to comments that we did not sell the full production capability, as required later in the legislation.*

○ (b) Phase B: Auction Implementation --

- ❖ (1) IN GENERAL.—The Secretary shall offer crude helium for sale in quantities not subject to auction under paragraph (2), after completion of each auction, at not less than the minimum price established under paragraph (7), and under such terms and conditions as the Secretary determines necessary –
  - (A) to maximize total recovery of helium from the Federal Helium Reserve over the long term;
  - (B) to maximize the total financial return to the tax- payer;...

▪ (2) Auction Quantities: –

**BLM Discussion:** *This tells how much to auction each year. Previously to this, we had been doing allocated sale, and an unallocated portion of that would go to non-refiners.*

- For the period described in paragraph (4) and consistent with the conditions described in paragraph (8), the Secretary shall annually auction to any qualified bidder a quantity of crude helium in the Federal Helium Reserve equal to –
  - (A) for fiscal year 2015, 10 percent of the total volume of crude helium made available for that fiscal year;
  - (B) for each of fiscal years 2016 through 2019, a percentage of the total volume of crude helium that is 15 percentage points greater than the percentage made available for the previous fiscal year; and

**BLM Discussion:** *FY 2016 is 25%; FY 2017 is 40%; We believe Congress’ intent is that the auction would drive a truly market-based price for helium.*

- (C) for fiscal year 2020 and each fiscal year thereafter, 100 percent of the total volume of crude helium made available for that fiscal year.
- (7) Prices: – The Secretary shall annually establish, as applicable, separate sale and minimum auction prices under subsection (a)(1) and paragraphs (1) and (2) using, if applicable and in the following order of priority:
  - (A) The sale price of crude helium in auctions held by the Secretary under paragraph (2).
  - (B) Price recommendations and disaggregated data from a qualified, independent third party who has no conflict of interest, who shall conduct a confidential survey of qualifying domestic helium transactions.
  - (C) The volume-weighted average price of all crude helium and pure helium purchased, sold, or processed by persons in all qualifying domestic helium transactions.
  - (D) The volume-weighted average cost of converting gaseous crude helium into pure helium.
- (7) Terms and Conditions:
  - (A) IN GENERAL. - The Secretary shall require all persons that are parties to a contract with the Secretary for the withdrawal, acceptance, storage, transportation, delivery, or redelivery of crude helium to disclose, on a strictly confidential basis—
    - ❖ (i) the volumes and associated prices in dollars per thousand cubic feet of all crude and pure helium purchased, sold, or processed by persons in qualifying domestic helium transactions;
    - ❖ (ii) the volumes and associated costs in dollars per thousand cubic feet of converting crude helium into pure helium; and
    - ❖ (iii) refinery capacity and future capacity estimates.

**BLM Discussion:** *Refiners have the responsibility to inform us of how much they have some costs of converting crude helium into refined helium. They have an obligation to report that as a condition of the sale of helium.*

- (B) Condition: -- As a condition of sale or auction to a refiner under subsection (a)(1) and paragraphs (1) and (2), effective beginning 90 days after the date of enactment of the Helium Stewardship Act of 2013, **the refiner shall make excess refining capacity of helium available at commercially reasonable rates to—**
  - (i) any person prevailing in auctions under paragraph (2); and
  - (ii) any person that has acquired crude helium from the Secretary from the Federal Helium Reserve by means other than an auction under paragraph (2) after the date of enactment of the Helium Stewardship Act of 2013, including non-allocated sales.

**BLM Discussion:** *When the Invitation for Offer (IFO) of 400 MMcf was sent out, the IFO included, as a condition of the sale, non-refiners to the BLM and their attempts to toll.*

- **(f) Minimum quantity:** —The Secretary shall offer for sale or auction during each fiscal year under subsections (a), (b), and (c) a quantity of crude helium that is the lesser of—
  - (1) the quantity of crude helium offered for sale by the Secretary during fiscal year 2012; or
  - (2) the maximum total production capacity of the Federal Helium System.

### **Helium Delivery Capability: Sam Burton**

- Helium Delivery Capability: See “**Scoping Meeting Presentation (Pdf)**” beginning with slide #18 at [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete presentation.

**BLM Discussion:** *For those of you who have worked in the helium industry, this slide is based on the Nitec model and was discussed at last year’s storage meeting. This model has a prediction for how the field will produce. This is the curve that was generated using the central compressor project which will be online by December 2014. With that in place, this is the projected production of the reservoir going out to 2029. This is the 2021 date that’s in the legislation that says that we will be completely out of the business and have sold off all the assets; everything will be sold off by 2021. At that point, we will have delivered 6.4 Billion cubic feet (Bcf); and will have approximately 4 billion (Bcf) still in the ground. That’s to be determined. Congress asked the BLM to do a 20-year Strategic Analysis study based on this kind of information and what the federal end users requirements will be. How the BLM will be able to provide helium to federal end users past 2021. The 20-year Strategic Analysis study is being done by Helium Resources division of the Amarillo Field Office, and will be prepared in about 2 years. Approximately 1.5 Bcf can be produced in FY 2014. Approximately 1.235 Bcf can be produced in FY 2015.*

- Federal Helium Program:

**BLM Discussion:** *A timeline of helium to be sold at auction. In 2014, we’ve already sold 400 MMcf. In 2015, ~ 820 MMcf will be sold. There’s a pre-sale in 2016 of 250 MMcf. All of required auctions and sales for FY2014, FY2015, and FY2016 advanced sale will be sold by August, 1, 2014; and all money will be collected by September 2014. This is a requirement specified in the Act. Going past FY 2016, things start to stabilize.*

- Tolling Options:

**BLM Discussion:** This is one of the main topics that we’re trying to get feedback for today is “how does the BLM do tolling”? As Robert said, tolling is non-refiners going to refiners and saying “I have helium. I’d like to have it processed”, and obtain a tolling contract/agreement.

- BLM act as a facilitator in the matching of “willing buyer – willing seller” for tolling services; or,
- BLM develops regulations to set price and require tolling agreements; or,

**BLM Discussion:** *BLM would be in the business of setting the price (determine the fair market price) then have requirements for tolling agreements before being able to buy or sell that gas. So it would be regulations on both sides.*

- BLM as data steward, Refiners and non-refiners use legal means to resolve issues; or

**BLM Discussion:** *As stated in the Act, refiners provide BLM with their excess capacity; non-refiners would enter into attempt to enter into tolling agreements. If they are unsuccessful because of non-commercially reasonable rates, then they could pursue a legal solution and let the courts decide what a commercially reasonable rate is.*

- Comment driven role

➤ **Pricing:**

**BLM Discussion:** *BLM just went through a very long process to determine its open market for methodology for crude helium prices. This was a requirement by the OIG. The Office of Mineral Evaluation (OME) helped us determine a contractor that could help us develop a fair open market pricing methodology. BLM collected all the information and provided what we could to the contractor and the methodology was presented to the BLM in late November 2013. The BLM then used that methodology to come up with a pricing strategy and got it approved. We were able to offer and IFO in January 2014. Unfortunately, this process did not allow us to do a sale in a timely manner in that first quarter. And a lot of volume has gone down in the reserve. This was due to this pricing method that we could not offer for sale to match that price. The final result of that determination raised the price to \$95 per thousand (Mcf).*

- Market-based pricing aligns to Office of Inspector General (OIG) recommendation and HSA 2013 requirement
- Independent survey was conducted by the Office of Mineral Evaluation
- Determination of Fair Market Value Pricing of Crude Helium
- Three options
  - ❖ 1. Private Spigot Price
  - ❖ 2. Weighted Bulk Price

**BLM Discussion:** *This one aligns really well with what the current Act says. This is the one that we selected, and it was used for the January 1 sale.*

- ❖ 3. Weighted Helium All Modes
  - Option 2 Aligns to HSA 2013 and was selected
- Formula is straightforward
- |   |          |
|---|----------|
| Weighted average bulk price (2013 data) | \$172.83 |
| X Calculated % (Crude of Market)        | 0.55     |
| = BLM Crude Price (rounded)             | \$95.00  |

**BLM Discussion:** *The total volume sold is through sales and bulk price and the auctions are factored in together moving forward.*

➤ **Auctions:**

**BLM Discussion:** *This is another key reason for today's meeting. BLM is trying to get a better understanding of what's the best way to auction off helium. This is new for us. Below are some options of how BLM can do auctions.*

- Live Auction
- GSA Auction (Ebay style)
- Sealed Bids
- BLM envisions lots (sized at 5 MMcf to 10 MMcf)

**BLM Discussion:** *Auction type has not been determined yet. We need feedback. What's a better benefit? If you think of a better way for us to sell crude helium please let us know. The comment period will be open through March 21, 2014.*

➤ **In-kind Program:**

**BLM Discussion:** *When the Privatization Act was signed, the government got out of the pure helium business. The In-kind program was put into place so that federal end users would not be shorted on their helium. The attempt was that wherever the private industry is able to get their helium, they would provide that helium to the federal agencies and then they were required to buy back an in-kind amount from the Federal Reserve. The source was always assumed to be outside the reserve. That was how it was originally set up.*

**BLM Discussion:** *What we see going on though, now with the shortage of helium and with the lack of availability of large quantities of helium, there's very little incentive for private industry to do business with the government if they can't guarantee that they will have the volume of helium available. During this time of shortage, we've been doing an MOU medium which is an agreement with the agencies which they put in their contracts that the government will provide the helium up front. Then the refiners would be able to process it, and that would allow in-kind helium contracts to be billed. That's separate from how it was done in the past.*

**BLM Discussion:** *The In-kind program has a 5-month delay. Helium is received from another source; 5 months later the private company gets their helium back. There's a discount in that helium. If you look on our website, you'll find the old market helium price, and also the lower in-kind helium price. It's approximately 80%. There is a 20% incentive in the difference in price.*

- Program to ensure Federal users have helium supply priority
- Regulated in 43 CFR 3195
- BLM re-delivers 100% In-kind reimbursement helium first before private storage
- Ownership transfers to private companies 6 -8 months after sale
- MOU's for Federal agencies, if no bids on new helium contracts
- BLM is seeking ways to improve regulations

**BLM Discussion:** *We definitely hear the refiners say that they need to have some assurances on the helium. We definitely hear that the end users want to have more understanding of how helium is provided to them. We need to make sure that federal agencies are reporting in a timely manner, how they're going to use that in-kind helium, so it can be delivered as needed without causing any problems to the market.*

**BLM Discussion:** *For all of these issues, we're opening the comment period now until March 21 for hearing from everyone about how we can improve the in-kind program.*

➤ **Proposed Timeline:**

FY 2015 Sale and Auction; and, FY 2016 Advanced Sale

**BLM Response:** *Both of these sales are specifically mentioned in the Act, and they will be done this year.*

- **Mar 6** - Public Scoping Meeting to Solicit Comments  
**BLM Response:** We will take all comments and try to figure out how to implement the sales, auctions, and the advanced sale.
- **Mar 15** - Non-Refiners report tolling experiences



**BLM Response:** Non-refiners tell us what kind of success or non-success they've had with their tolling.

- **Mar 21** - Public comment period closes; and, Drafting of Federal Register notice
- **Apr 15** - 3rd Party Pricing Survey of qualified domestic helium transactions; and Federal Register notice for Auctions released
- **May 15** - Survey results received; and 10% Auction (FY 2015 Redelivery) Notice (non-allocated auction)
- **May 31** - Second pay date for FY 2014 Sale
- **Jun 16** - 10% Auction completed
- **Jun 17** - 10% Auction results published
- **Jun 23** - Invitation for Offer released for FY 2015 and FY 2016 Advanced Sale (allocated sales)
- **Jul 11** - FY 2015 sale complete
- **Jul 14** - FY 2015 sale results published
- **Jul 18** - 10% Auction revenues collected
- **Jul 28** - FY 2016 Advance Sale complete
- **Aug 1** - FY 2016 advanced sale results published; and Auctioned volumes transferred into storage holders' accounts
- **Sep 14** - FY 2015 and FY 2016 revenues collected
- **Sep 30** - Notice of intent to revise existing storage contracts
- **Oct 1** - Helium balances transferred to storage accounts

**BLM Response:** *The schedule provides a general overview. It may be compressed toward the August 1<sup>st</sup> date, depending on our ability to get the preparatory work completed. We cannot transfer balances until they are paid for. You normally have that ability to transfer volumes in the previous month. But we realized that for FY 2016, we are not redelivering this. Fortunately, FY 2015 starts October 1<sup>st</sup>, 2014, but we will not delivery FY 2016 until October 1, 2015. So people will be paying for helium before they receive delivery.*

**Questions and Answers regarding the above presentations:**

- **Question:** Will these slides being presented be published on the website?
  - ✓ **Answer: (Sam)** Yes, we will post the slides to the website.  
See “**Scoping Meeting Presentation (Pdf)**” at [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete presentation.
- **Question:** In earlier conversations with private industry, we indicated that two sales of 400 MMcf, but the slide shows only one sale of 400 MMcf.
  - ✓ **Answer: (Sam)** *When we looked at the new law, we saw there would be the potential ability to determine what we were going to sell. This is being discussed by our lawyers, of whether or not we will offer the second block of 400 MMcf.*
  - ✓ **Answer: (Robert)** *The decision has not been made to offer a second 400 MMcf. If we're required to offer a second 400 MMcf by legislation, we will.*
- **Question:** Wouldn't it be better for the taxpayers if we sold as much as we could deliver in 2014 rather than making the decision to sell 400 MMcf? Does the BLM plan on selling a second lot of helium as they had indicated during December 2013? The explanation

given in December 2013 was that the BLM had decided to offer 800 MMcf for sale in two lots each of 400 MMcf. This is why the price in December was set for the period Jan 1 - May 31, anticipating a second sale of another lot of 400 MMcf in June - Sept time frame. This would be in the interests of maximizing returns for taxpayers by selling more helium in 2014.

✓ **Answer: (Robert)** *The 400 MMcf was originally derived from our sense to draw down the reserves to some degree, because we currently have 2.1 Bcf in private storage that we may not have the ability to get out. Department of the Interior lawyers are working to determine if we do have a requirement to sell more helium for FY2014. If it's not found to be the case by the legal group, then we'll probably stay with the 400 MMcf. We have to maximize these auctions for taxpayer revenue. If there's a lot in storage, there's less emphasis on bidding on the auctioned helium.*

➤ **Question:** These are two separate transactions. The sale and delivery are unrelated

✓ **Answer: (Robert)** *We understand that. We can only deliver, based upon what the Nitec model says the field can produce. The issue of additional FY2014 sales is under advisement and we will get back to you at the end of the public comment period as to what the results are.*

#### Public speakers

➤ Mr. John Bigham, Vice President, Global Helium, Matheson, provided comments to the group. See "Matheson notes on March 6 hearings (Final)" at [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete comments.

➤ Mr. Phil Kornbluth, Sr. Vice President of Global Gases America, provided comments to the group. See "Global Gases Statement - BLM Hearing - March 6 2014" at [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete comments.

✓ **Robert replied** – *With respect to the 55% factor for market based pricing methodology, when the pricing methodology was developed, it tracked the trendline of bulk weighted percentage of crude helium to pure helium. Historically, up until about 2003, the percentage was about 55% and recently dropped to about 49%. When BLM selected the factor, it was to align with the 2003 from historical data that suggested that crude prices were 55% of pure helium prices. This is where the 55% came from. There's no background or formula to derive that, it was only an observation to get us back in line with the historic prices.*

➤ Mr. David Joyner, President of Air Liquide, provided comments to the group. We will post his comments to [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) upon receipt.

➤ Mr. Tom Thoman, Division President of Gases Production at Airgas, Inc., provided comments to the group. See "Comments to BLM Ltr 2014-02-28 - Tom Thoman - final version" at

[http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html) for complete comments.

### Questions and Answers:

- **Question:** Has there been any changes to the logistics of tapping a line?
  - ✓ **Answer: (Robert)** *This new bill encourages buying helium in the auction process. As the auctions proceed, more helium will be offered for sale, while less helium is allocated to the refiners. Which means more helium is open to anyone who is qualified bidder under the legislation. We envision the possibility that someone can tap the line and enter into a storage agreement with BLM. There might be technical issues we need to overcome, but we don't see anything in the legislation that will preclude companies from doing that.*
- **Question:** Can you explain the current relationship between the BLM and the partnership that owns and operates the helium plant?
  - ✓ **Answer: (Robert)** *The BLM operates the Cliffside Crude Enrichment plant. That Crude Enrichment plant is a private industry-owned facility. The BLM provides the operators that operate the plant. The BLM's facilities (i.e., shops, warehouses, office space, storage tanks, gas lines, etc.) are co-located with the Crude Helium Enrichment Unit (CHEU), which is owned by the Cliffside Refiners Limited Partnership (CRLP). CRLP is the owner and BLM is the operator of the CHEU and there's nothing more to it.*
- **Question:** Does this partnership or member of companies have any sort of say or influence by outside companies design over the BLM?
  - ✓ **Answer: (Robert)** *No. The BLM owns the pipeline and the reservoir. The companies comprising the CRLP do nothing more than process the gas that we provide and enrich that gas to a certain level that refiners can use and send that down the pipeline.*
- **Question:** If IACX Energy did tap a line, follow all the rules and regulations, does it then become a refiner?
  - ✓ **Answer: (Sam)** *You would certainly be a producer of helium. The contracts we have now are for the companies that put the plants on initially. You wouldn't have a contract in the sense as those who started with us. But the Act allows you to become connected to the pipeline, accept helium, and participate in sales. You would not get any bonus.*
- **Question:** If we're not a refiner, as per the law, then we don't have to toll for others?
  - ✓ **Answer: (Robert)** *Under current operations, there are percentages and allocations based on refiners' historic capacities. Those contracts expire in October 2015, and we are revising those contracts. So if you were to enter into a current contract with the BLM, you would be a refiner and would get a share of the amount of gas that goes down the pipeline. We would have to come up with some other methodology to calculate the allocated share, but of the 1.2 MMcf projected for FY2015 delivery, you would get a certain percentage of that. You would be required under the current*

*legislation to provide the BLM with information regarding your excess tolling capacity and to make that excess capacity available to those seeking to toll at commercially reasonable rates.*

- **Question:** Redelivery of purchased volume wasn't discussed. You mentioned that if you were a refiner, you could participate in redelivery. How does a non-refiner participate in redelivery of what we purchased or what we're going to purchase?

- ✓ **Answer: (Robert)** *This is a question that BLM is dealing with now. For refiners and non-refiners, the BLM manages that gas for the public's benefit. The conditions of the sale require refiners to provide information on excess production capacity and to make that excess available at commercially reasonable rates. In mid-April, after we get comments back from this meeting, we'll adjust those comments, we'll develop general proposed rule that will go in the Federal Register. The public will have another chance to comment on that rule. The interim rule will explain how the BLM plans to do auctions, include definitions such as excess capacity, and how BLM regulates excess capacity, etc. The proposed rule will be posted for 30 days in the Federal Register. You should have the answers by about June.*

- **Question:** This is a critical point of future of the Federal Helium Program. Everybody spoke about the inability for tolling and the prices attached to tolling. Redelivery of that is also critical?

- ✓ **Answer: (Robert)** *Redelivery is key to the 40 MMcf that was sold in the Phase A to non-refiners. Currently the non-refiners who reported back to us in the aggregate have had very little success at getting tolling of 40 MMcf, when the industry told me that they had 72 MMcf available of excess capacity. So there's some difference in expectations between the non-refiners and the refiners.*

- **Question:** Redelivery is going to be critical too, because even if we enter into a tolling agreement, the timing before we can get that is going to be poor?

- ✓ **Answer: (Robert)** *The legislation says we have to establish a schedule for that redelivery. You would see that schedule for the Phase B auctions. That's a tough legislative question of how to get people to cooperate. In this first sale, of the 400 MMcf that was offered for sale in Phase A in January, we put a 60-day window for the non-refiners to report back to us. We wanted to see what the industry would say. BLM recognized that the answers received back were not acceptable.*

- **Question:** The issues that BLM faces has two components, first is to sell the helium and second to deliver of helium. Currently, helium delivered to refiners, other than In-kind helium, is all on an interruptible basis, entirely. That's a very important fact. As long as refiners expect to get helium delivered on a non-interruptible basis, except for In-kind. Currently, any refiner who gets helium under the In-kind helium is always subject to interruption. The market is tight and has been. We've seen situations where there were interruptions in the redelivery of helium.

✓ **Answer: (Robert)** *The BLM operates the enrichment unit on 24 hours per day, 7 days per week basis. There will be scheduled interruptions and unscheduled events which disrupt delivery. The BLM works closely with the CLRP to minimize downtime.*

➤ **Question:** It is not the BLM's role to manage inventories for its customers. The HSA specifically requires the BLM to sell the helium as per the provisions of the Act and to deliver it with a certain delivery priority.

1. Tolling - Linde has provided excess capacity and responded to RFQ's from non-refiners. We have received limited to no responses to these proposals.

2. Delivery - many companies do not understand how pipeline delivery works. Other than In Kind molecules, pipeline delivery is fully interruptible and is subject to changes as the BLM changes their allocation. Excess capacity for processing is in itself a meaningless measure as the limitation on the system supply is the delivery of product down the pipeline from the BLM, not the ability of plants to process this. The key measure is the excess pipeline delivery capacity relative to that refiner's total demand, which is more relevant.

3. How to incentives refiners to toll: Linde proposed to Congress during the development of the HSA that if the BLM sells a block of Helium along with a portion of the pipeline delivery allocation, which would ensure that a portion of the delivery volume was allocated to each purchase. In this fashion, each refiner will be incentivized to compete for processing of those molecules, since tolling would provide additional volume of product into its plant/s for processing. Linde believes this system would practically provide an incentive to refiners to toll for owners of inventory. Of course the BLM needs to determine an allocation split of delivery volumes between in kind, current sales and existing inventory to ensure delivery allocation is equitable. It would be possible to implement this new delivery mechanism after the current Storage Agreements have expired.

4. Sales of Helium in blocks - Linde maintains that the BLM should offer helium in significantly sized blocks of product in its upcoming auctions. Linde recommends that each block should be no less than 10-20% of the total volume offered for auction, or the process will become too onerous.

✓ **Answer: (Robert)** *The current contract addresses how we deliver amongst the refiners. The current contract expires September 30, 2015. The only sales prior to starting delivery of 2016 sales will be under a new contract with the BLM, which we hope will solve some of our problems. Right now, we need to work within the framework provided by legislation and existing agreements and contracts.*

➤ **Question:** We do have a storage contract, and that has an obligation to deliver the molecules.

✓ **Answer: (Robert)** *You should expect as a refiner and as a non-refiner some substantial changes in that contract to put us more in alignment with the Helium Stewardship Act. We're getting more non-refiners that may own helium, but can't refine it. We'll have to change that paradigm to where those who buy helium at the auctions are able to refine.*

*The law requires that BLM, as a condition of sale, make sure that people who buy helium have a reasonable expectation to be able to enter into tolling agreements. The BLM will be establishing a process and make changes to new contracts that are aligned with the principles of the new legislation.*

#### **Meeting Wrap-up: Robert Jolley**

We appreciate your input. If the speakers have written statements and want them to be included with our records, please send them to us. These comments from the public are very important to us. They help us determine what to do next and how we do it. All comments are welcome and carry equal weight. We appreciate all comments. The comment period is open until March 21, 2014. We will respond to each comment that we receive.

➤ **Question:** Will BLM send out email notifications on IFO, events, etc., or do we need to check the website?

✓ **Answer: (Robert)** *We have a good database of emails. We will send notifications to as many people as we have email address for, and the IFOs are posted on FedBizOpps.gov.com. Last year during the developmental legislation up until the President signed the HSA, we were having routine calls with the industry and with affected end users. We intend to continue these calls. The next call is scheduled in April.*

➤ **Question:** Will you post the draft rules? Will you send notifications that the draft rules are posted, and there's a 30-day comment period?

✓ **Answer: (Robert)** *Yes. Notifications will be sent to all email addresses that we have, and it will be posted on the Federal Register. We encourage you to send either Sam or Robert an email that you want to be added to the email list.*

#### **Closing Remarks: Robert Jolley**

Thank you again. Sam and I are always available. If you have questions or comments, please email one of them. Shortly after March 21, we'll send out response to the comments on the website. Thank you very much.

**Web site:** [http://www.blm.gov/nm/st/en/prog/energy/helium\\_program/hsa\\_scoping.html](http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html)

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